

1 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
2 A Limited Liability Partnership
3 Including Professional Corporations
4 TRACEY A. KENNEDY, Cal Bar No. 150782
5 ROBERT E. MUSSIG, Cal. Bar No. 240369
6 H. SARAH FAN, Cal. Bar No. 328282
7 350 South Grand Avenue, 40th Floor
8 Los Angeles, CA 90071-3460
9 Telephone: 213.620.1780
Facsimile: 213.620.1398
E-mail: tkennedy@sheppardmullin.com
rmussig@sheppardmullin.com
sfan@sheppardmullin.com

10
11 Attorneys for Defendant.
12 CHEVRON U.S.A. INC.,
13 a Pennsylvania corporation

14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION

MARK SNOOKAL, an individual,

Plaintiff,

vs.

CHEVRON USA, INC., a California Corporation, and DOES 1 through 10, inclusive,

Defendants.

Case No. 2:23-cv-6302-HDV-AJR

DEFENDANT CHEVRON U.S.A., INC.’S MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION IN LIMINE NO. 1 TO EXCLUDE EVIDENCE OR TESTIMONY OF ANY SUBJECTIVE OPINION OR BELIEF BY PLAINTIFF REGARDING HIS PAST OR FUTURE ECONOMIC DAMAGES

Date: July 24, 2025

Time: 10:00 a.m.

Place: Courtroom 5B – Fifth Floor

District Judge: Hon. Hernán De. Vera
Magistrate Judge: Hon. A. Joel Richlin

Action Filed: August 3, 2023

Trial Date: August 19, 2025

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Pursuant to Federal Rules of Evidence 402, 403, 701 and 702, the Court should
4 exclude the introduction of subjective opinions and beliefs of Plaintiff Mark Snookal
5 (“Plaintiff”) and his witnesses regarding Plaintiff’s past and future economic damages—
6 namely, his belief that he would have remained in the Reliability Engineering Manager
7 (“REM”) position in Escravos for the entire 3 to 4 year duration of the expatriate
8 assignment and/or that he would have remained in that position or an equivalent position
9 until his retirement. The reason such evidence should be excluded in this particular case
10 is because such opinions or belief have no basis in fact. Plaintiff admitted that there is no
11 guarantee that he would have been reselected for the REM position after the assignment
12 ended, and there is no guarantee that he would have found another, equivalent expatriate
13 assignment. Additionally, there is no guarantee that Plaintiff would have remained in the
14 REM position for the entire duration of the assignment. The REM position was subject
15 to reselection as part of a wide-scale reorganization in or around the end of 2020, and the
16 employee who assumed the REM position after Plaintiff’s offer was rescinded did not
17 remain in the position past January 2021. As such, any subjective opinions, beliefs, or
18 speculation that Plaintiff would have continued in the REM position past January 2021
19 should be excluded.

20 **II. RELEVANT FACTUAL BACKGROUND**

21 Plaintiff was hired by Chevron U.S.A. on January 12, 2009, as an Analyzer
22 Engineer. Beginning in or about November 2016, Plaintiff was promoted to the position
23 of Instrumentation, Electrical, and Analyzer Reliability (“IEAR”) Team Lead in the
24 Reliability subgroup of the Maintenance department, with Pay Salary Grade 22 (earning
25 approximately \$141,100 base salary). In or around May 2019, Plaintiff applied for and
26 ultimately received an offer for an expatriate assignment as a Reliability Engineering
27 Manager (“REM”) position in Escravos, Nigeria, with an assignment duration of 3-4
28 years. After Plaintiff failed to clear the Medical Suitability for Expat Assignment

1 (“MSEA”) fitness for duty examination, the offer for the REM position was rescinded on
2 or about September 4, 2019.

3 On or about August 4, 2021, Plaintiff voluntarily resigned from his employment
4 with Chevron U.S.A., effective August 20, 2021, for the stated reason that he was leaving
5 for an opportunity with significantly increased responsibility. The evidence at trial will
6 show that from September 2019 through the date of his resignation, Plaintiff never
7 experienced a decrease in his compensation or benefits.

8 The evidence will show that Plaintiff started his employment as a E/I Maintenance
9 Superintendent at Nippon Dynawave Packaging Co. (“Nippon Dynawave”) in Longview,
10 Washington on or about September 6, 2021, with a base pay of \$150,000 and an annual
11 incentive target of 20% of his base, as well as equivalent health insurance benefits,
12 401(k) plan, vacation, and relocation benefits. After resigning from Nippon Dynawave
13 effective August 25, 2023, Plaintiff started employment as an Electrical Superintendent at
14 Georgia-Pacific Wauna LLC (“Georgia-Pacific”) on September 1, 2023, earning a base
15 salary of \$180,000 with eligibility for performance pay, as well as equivalent health
16 insurance benefits, 401(k) plan, and vacation benefits.

17 In calculating Plaintiff’s alleged economic damages, Plaintiff’s economics expert,
18 Dr. Charles L. Baum, assumed, without any factual support or rationale, that Plaintiff
19 would have been promoted to Pay Salary Grade 23 “after no more than 6 months” after
20 the position was expected to begin on August 1, 2019. Mussig Decl., ¶ 4, Ex. C [Baum
21 Report] at p. 2, no. 7. This assumption is based on information Dr. Baum received from
22 Plaintiff and his counsel. Plaintiff testified during deposition that he believed Chevron
23 U.S.A. had a policy against keeping employees at a lower Pay Salary Grade than the
24 position they held was graded for more than 6-12 months, and that he believed he
25 “might” have been moved up to Pay Salary Grade 23 after working six months in
26 Escravos. Mussig Decl., ¶ 2, Ex. A [Pl. Dep. Tr.] at 265:16-266:5. However, Plaintiff
27 also admitted that no one had told him he would advance to Pay Salary Grade 23 after he
28 assumed the REM position in Escravos. *Id.* at 272:20-23.

1 Additionally, Dr. Baum's economic damages calculations assume, again without
2 any factual basis, or based on any reliable rationale, that if Plaintiff assumed the REM
3 position in Escravos, with an assignment duration of 3-4 years, that Plaintiff would
4 continue in that position or maintained some other position with the same compensation.
5 Mussig Decl., ¶ 3, Ex. B [Baum Dep. Tr.] at 22:10-23:9. However, Plaintiff admitted
6 that there was no guarantee he would have gotten the assignment again after it ended.
7 Mussig Decl., ¶ 2, Ex. A [Pl. Dep. Tr.] at 271:8-24. The evidence at trial will show that
8 between March 2020 and June 2020, the individual who assumed the REM position after
9 Plaintiff's offer was rescinded, Amir Zaheer, was kept home from the assignment due to
10 COVID-related travel restrictions in Nigeria. Subsequently, due to an internal
11 reorganization, the REM position was subject to reselection, and beginning in or around
12 January 2021, another employee, Cesar Malpica, assumed the REM position.

13 **III. ARGUMENT**

14 **A. Statements of Belief Constitute Improper Lay Opinion Testimony**
15 **Under FRE 702.**

16 Federal Rule of Evidence ("FRE") 701 sets the requirements for lay opinion
17 testimony, which require generally that a witness have personal knowledge of the matter
18 forming the basis of the opinion, a rational connection between the opinion and the facts
19 upon which it is based, and the opinion or inference must be helpful to the trier of fact in
20 either understanding the testimony or in determining a fact in issue. In order for Plaintiff
21 or any other lay witness to offer an opinion as to the extent of Plaintiffs alleged economic
22 damages, firsthand knowledge and expertise regarding the calculation of such damages is
23 necessary. Fed. R. Evid. 701. Plaintiff cannot establish that he or any of his witnesses
24 have such knowledge.

25 It is well-settled that damages calculations must be reasonable, and no more than
26 reasonable damages can be recovered. *See Cal. Civ. Code § 3359.* "Damage to be
27 subject to a proper award must be such as follows the act complained of as a legal
28 certainty." *Agnew v. Parks*, 172 Cal. App. 2d 756, 768 (1959). "A damage award must

1 not be speculative, remote, imaginary, contingent, or merely possible.” *Atkins v. City of*
2 *Los Angeles*, 8 Cal. App. 5th 696, 738 (2017) (*citing* cases) (internal quotes omitted).
3 Damages for loss of future earnings are only recoverable “where the evidence makes
4 reasonably certain their occurrence and extent.” *Id.* (*quoting Toscano v. Greene Music*,
5 124 Cal. App. 4th 685, 694 (2004); *Licudine v. Cedars-Sinai Medical Center* (2016) 3
6 Cal. App. 5th 881, 887 (2016) (“the jury must fix a plaintiff’s future earning capacity
7 based on what it is ‘reasonably probable’ she could have earned”). Any damages
8 calculations offered by Plaintiff, his counsel, and his experts must also be reliable, and
9 not speculative.

10 Chevron U.S.A. anticipates that Plaintiff will attempt to introduce evidence and
11 argument that he would have been promoted to Pay Salary Grade 23 within 6 months of
12 assuming the REM position in Escravos. However, Plaintiff’s contentions are not based
13 in reality, as evidenced by his own admissions. While Plaintiff claims that it is Chevron
14 U.S.A.’s policy to promote employees to the Pay Salary Grade of the job position they
15 are working in, which is subject to proof, Plaintiff admitted no one told him he would
16 receive a promotion to Pay Salary Grade 23 after assuming the REM position. Mussig
17 Decl., ¶ 2, Ex. A [Pl. Dep. Tr.] at 272:20-23. Even Plaintiff’s belief regarding Chevron
18 U.S.A.’s alleged policy, and its application to a hypothetical scenario where Plaintiff
19 assumed the REM position, is speculative—Plaintiff stated that “usually” an employee in
20 such a scenario would be reevaluated, and “generally speaking” may be moved to a
21 higher Pay Salary Grade. *Id.* at 265:16-266:5. Similarly, the assumption of Plaintiff’s
22 economics expert that Plaintiff would have received the promotion as a matter of course
23 after assuming the REM position is based solely on Plaintiff’s speculation.

24 Chevron U.S.A. also anticipates that Plaintiff will attempt to introduce evidence
25 and argument that his employment in the REM position in Escravos would have extended
26 beyond the duration of assignment—i.e., 3-4 years. Again, this is pure speculation not
27 based on the facts. Plaintiff admitted that there was no guarantee he would have gotten
28 the assignment again after it ended. Mussig Decl., ¶ 2, Ex. A [Pl. Dep. Tr.] at 271:8-24.

1 Additionally, after the offer for the REM position was rescinded from Plaintiff, the
2 employee who assumed the position after him was unable to work in the position between
3 March 2020 and June 2020 due to COVID-related travel restrictions in Nigeria, and when
4 the position was identified for reselection as part of company reorganization, that
5 employee was not reselected for the role. Another employee assumed the REM position
6 in or around January 2021.

7 Statements of belief that Plaintiff would have continued earning a certain amount
8 of base compensation from Chevron U.S.A., as well as location premiums and/or tax
9 equalization benefits relating to the expatriate assignment, but-for Chevron U.S.A.'s
10 conduct amounts to improper opinion testimony. Such statements depend upon an
11 inference or conclusion made by a witness which does not relate to something that was
12 actually seen or heard, but rather by the witness' perception of how events occurred. As
13 such, they rest on a wholly subjective foundation that is not helpful to the jury who must
14 decide the case.

15 In fact, Plaintiff has no personal knowledge, and relies solely on his own
16 speculative allegations and beliefs, that he would have continued in the REM position for
17 the entire 3-4 years of the assignment even if it had not been rescinded, and/or that he
18 would have continued in the REM position or another equivalently compensated
19 expatriate position until his projected work life expectancy. Plaintiff's intent or
20 subjective belief that he would remain in such positions is irrelevant, as he would have
21 been required to apply and be selected for those positions at each juncture. There is also
22 no guarantee that Plaintiff would have stayed with Chevron U.S.A. until his retirement,
23 or even that Plaintiff would have wanted to continue working in expatriate assignments
24 after he experienced his first one in Escravos. *See Atkins*, 8 Cal. App. 5th at 740-741
25 (finding employees' calculations of future economic damages too speculative in
26 assuming the actualization of various steps in their careers, including consideration that
27 the employees have not worked a day in those jobs); *see also Licudine v. Cedars-Sinai*
28 *Med. Ctr.*, 3 Cal. App. 5th 881, 899 (2016) (finding same, including consideration that

1 there was no evidence of the plaintiff's likelihood of obtaining the assumed job position).

2 It is clear that Plaintiff had no expectation of continued employment in the role
3 after the duration of the assignment ended in 3 to 4 years, and it is unlikely Plaintiff
4 would have remained in the role after January 2021, given the company-wide
5 reorganization. Any belief or argument that Plaintiff would have continued in the REM
6 position or some other expatriate position—which would have required an additional
7 application and selection process—is based on pure speculation. As such, this testimony
8 should be excluded under Federal Rules of Evidence 701.

9 Witnesses can describe facts, but that the Court should not allow them to suggest
10 their own interpretation or opinion as to what they attest absent personal knowledge
11 sufficient to permit such testimony. To allow a witness to usurp this function is to deny
12 the jury their role as the sole finders of fact.

13 Accordingly, any testimony regarding the extent of Plaintiff's alleged past
14 economic damages relating to an speculative promotion to Pay Salary Grade 23, and
15 alleged future economic damages after January 2021 based on compensation of the REM
16 position, must be excluded from presentation at trial.

17 **B. Statements of Belief Are More Prejudicial Than Probative and Should**
18 **Be Excluded Pursuant to Federal Rules of Evidence Rule 403.**

19 Even if deemed relevant, "evidence may be excluded if its probative value is
20 outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the
21 jury, or by considerations of undue delay, waste of time or needless presentation of
22 cumulative evidence." Fed. R. Evid. 403. As discussed in more detail, *supra*, Plaintiff's
23 unsupported beliefs regarding his past and future lost earnings following the rescission of
24 the REM position is based on his own speculation, not any objective support or
25 admissible evidence. Allowing such testimony into evidence would confuse the issues
26 and mislead the jury into thinking that Plaintiff had any entitlement to the REM position
27 or other expatriate positions, or even that he was qualified for them, and would cause
28 unfair prejudice to Chevron U.S.A. Additionally, allowing such improper opinion and

1 speculative testimony would unduly waste the Court and the jury's time.

2 **IV. CONCLUSION**

3 Accordingly, Chevron U.S.A. respectfully requests an order precluding Plaintiff,
4 his counsel, and his witnesses from presenting testimony or evidence of Plaintiff's
5 alleged past economic damages relating to an speculative promotion to Pay Salary Grade
6 23, and alleged future economic damages after January 2021 based on compensation of
7 the REM position, on the grounds that such evidence would be irrelevant and unduly
8 prejudicial, and would also confuse the issues and mislead the jury.

9

10 Dated: July 7, 2025

11 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

12

13

14 By

/s/ Tracey Kennedy

15 TRACEY A. KENNEDY
16 ROBERT E. MUSSIG
17 H. SARAH FAN
18 Attorneys for Defendant
19 CHEVRON U.S.A. INC.,
20 a Pennsylvania Corporation

21

22

23

24

25

26

27

28